

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

MICHAEL MONCKTON,)	
)	
Petitioner,)	
)	
vs.)	NO. CIV-21-0816-HE
)	
RICK NUNN,)	
)	
Respondent.)	

ORDER

Petitioner Michael Monckton, a state prisoner appearing *pro se*, filed this case seeking habeas relief from his state court conviction. Pursuant to 28 U.S.C. § 636(b)(1)(B) and (C), the matter was referred to Magistrate Judge Gary M. Purcell for initial proceedings. After reviewing petitioner's filings, Judge Purcell ordered the Oklahoma Attorney General to respond to the petition. In response, respondent filed a motion to dismiss the petition as a second or successive habeas filing. Judge Purcell has now issued a Report and Recommendation recommending that the motion be granted and the petition be dismissed. Petitioner has objected to the Report which triggers *de novo* review of matters to which objection has been made.

Petitioner's first habeas petition was dismissed pursuant to Younger v. Harris, 401 U.S. 37 (1971). Petitioner's second habeas petition was denied on its merits. Monckton v. Bryant, No. CIV-16-1136-HE (W.D. Okla. Sept. 28, 2017). Petitioner's third habeas petition was denied to the extent petitioner sought relief pursuant to Rule 60(b) and transferred jurisdiction of the petition to the Tenth Circuit after determining it was a second

or successive habeas petition. Monckton v. Whitten, No. CIV-19-0298-HE (W.D. Okla. May 1, 2019). That court dismissed the action.

Petitioner objects to the Report on the basis that he is objecting to a judgment and sentence that he previously unaware existed. This “new” judgment is dated July 1, 2015, well before petitioner’s first, second, and third petitions. He asks the court to entertain this petition as a first habeas petition under this “new” judgment. He also seeks to have the court dismiss the petition because he claims to have filed another state court action questioning the jurisdiction of his underlying judgment.

The court concludes that the petition is a second or successive petition filed without authorization by the Tenth Circuit Court of Appeals. Accordingly, respondent’s Motion to Dismiss [Doc. #10] is **GRANTED**. The petition is **DISMISSED** without prejudice.

IT IS SO ORDERED.

Dated this 16th day of November, 2021.



JOE HEATON
UNITED STATES DISTRICT JUDGE